

§ 98.2

(Authority: 20 U.S.C. 1221e-3(a)(1), 1230, 1232h, 3487, 3507)

§ 98.2 Definitions.

(a) The following terms used in this part are defined in 34 CFR part 77: “Department,” “Recipient,” “Secretary.”

(b) The following definitions apply to this part:

Act means the General Education Provisions Act.

Office means the information and investigation office specified in § 98.5.

(Authority: 20 U.S.C. 1221e-3(a)(1))

§ 98.3 Access to instructional material used in a research or experimentation program.

(a) All instructional material—including teachers’ manuals, films, tapes, or other supplementary instructional material—which will be used in connection with any research or experimentation program or project shall be available for inspection by the parents or guardians of the children engaged in such program or project.

(b) For the purpose of this part *research or experimentation program or project* means any program or project in any program under § 98.1 (a) or (b) that is designed to explore or develop new or unproven teaching methods or techniques.

(c) For the purpose of the section *children* means persons not above age 21 who are enrolled in a program under § 98.1 (a) or (b) not above the elementary or secondary education level, as determined under State law.

(Authority: 20 U.S.C. 1221e-3(a)(1), 1232h(a))

§ 98.4 Protection of students’ privacy in examination, testing, or treatment.

(a) No student shall be required, as part of any program specified in § 98.1 (a) or (b), to submit without prior consent to psychiatric examination, testing, or treatment, or psychological examination, testing, or treatment, in which the primary purpose is to reveal information concerning one or more of the following:

(1) Political affiliations;

(2) Mental and psychological problems potentially embarrassing to the student or his or her family;

34 CFR Subtitle A (7–1–03 Edition)

(3) Sex behavior and attitudes;

(4) Illegal, anti-social, self-incriminating and demeaning behavior;

(5) Critical appraisals of other individuals with whom the student has close family relationships;

(6) Legally recognized privileged and analogous relationships, such as those of lawyers, physicians, and ministers; or

(7) Income, other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under a program.

(b) As used in paragraph (a) of this section, *prior consent* means:

(1) Prior consent of the student, if the student is an adult or emancipated minor; or

(2) Prior written consent of the parent or guardian, if the student is an unemancipated minor.

(c) As used in paragraph (a) of this section:

(1) *Psychiatric or psychological examination or test* means a method of obtaining information, including a group activity, that is not directly related to academic instruction and that is designed to elicit information about attitudes, habits, traits, opinions, beliefs or feelings; and

(2) *Psychiatric or psychological treatment* means an activity involving the planned, systematic use of methods or techniques that are not directly related to academic instruction and that is designed to affect behavioral, emotional, or attitudinal characteristics of an individual or group.

(Authority: 20 U.S.C. 1232h(b))

§ 98.5 Information and investigation office.

(a) The Secretary has designated an office to provide information about the requirements of section 439 of the Act, and to investigate, process, and review complaints that may be filed concerning alleged violations of the provisions of the section.

(b) The following is the name and address of the office designated under paragraph (a) of this section: Family Educational Rights and Privacy Act Office, U.S. Department of Education,